

1 BEFORE THE
2 POLLUTION CONTROL HEARINGS BOARD
 STATE OF WASHINGTON

3 IN THE MATTER OF)
4 OLYMPIA OIL & WOOD PRODUCTS)
5 COMPANY, INC.,)
)
6 Appellant,)
)
7 v.)
)
8 OLYMPIC AIR POLLUTION)
9 CONTROL AUTHORITY,)
)
 Respondent.)
)

PCHB No. 718

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

10 A formal hearing on the appeal of Olympia Oil & Wood Products
11 Company, Inc. to a notice of civil penalty in the amount of \$100.00 for
12 an alleged smoke emission violation came on before Board members W. A.
13 Gissberg (presiding), Chris Smith and Walt Woodward, on February 18,
14 1975 in Lacey, Washington.

15 Appellant appeared by and through its general manager, Max E.
16 Millsap; respondent appeared by and through its attorney, Fred D. Gentry.

17 Having heard the testimony and considered the exhibits admitted
18 into evidence and being fully advised, the Board makes and enters the

1 following

2 FINDINGS OF FACT

3 I.

4 Respondent, pursuant to Section 5, chapter 69, Laws of 1974, 3rd
5 Ex. Sess., has filed with this Board a certified copy of its Regulation
6 I containing respondent's regulations and amendments thereto.

7 II.

8 On July 29, 1974 respondent's inspector observed visual emissions
9 emanating from appellant's asphalt batch plant located on Black Lake
10 Boulevard at or near Olympia, Thurston County, Washington. Such emissions
11 were from the exhaust smoke stack of appellant's plant and were observed
12 for 20 continuous minutes (between 11:15 a.m. and 11:40 a.m.) and were
13 of a shade darker than that designated as No. 2 on the Ringelmann Chart,
14 namely, in excess of No. 3 on the Ringelmann Chart.

15 III.

16 Respondent issued its notice of violation followed by its notice of
17 civil penalty in the amount of \$100.00. Respondent had issued one prior
18 visual emission violation warning to appellant on June 9, 1972.

19 IV.

20 The cause of the visual emission violation from appellant's plant
21 was a broken waterline serving the scrubber stack. Immediately upon being
22 notified of the violation, appellant caused its plant to be shutdown and
23 repairs to be made to the waterline. Two days thereafter, on June 31,
24 1974, at appellant's request, respondent made an inspection of the plant
25 and determined that, notwithstanding the repairs, appellant would be in
26 violation if the plant were operated in its then condition. Accordingl

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 the plant was permanently closed and the equipment thereon was sold by
2 appellant and the purchaser has removed the same from appellant's
3 property.

4 V.

5 Section 9.03 of respondent's Regulation I makes it unlawful to cause
6 or allow the emission to the outdoor atmosphere, for more than three
7 minutes in any one hour, of a gas stream containing air contaminants
8 which are darker in shade than that designated as No. 2 on the Ringelmann
9 Smoke Chart.

10 VI.

11 Any Conclusion of Law hereinafter recited which should be deemed a
12 Finding of Fact is hereby adopted as such.

13 From these Findings the Pollution Control Hearings Board comes
14 to these

15 CONCLUSIONS OF LAW

16 I.

17 Appellant was in violation of Section 9.03 of respondent's
18 Regulation I.

19 II.

20 The primary purpose of air pollution regulations is to clean up the
21 air and not impose civil penalties when no useful purpose would be
22 served thereby. Appellant has taken the most drastic steps available to
23 it to stop air pollution, i.e., shutdown and dispose of its plant
24 facility. Accordingly, although the amount of the civil penalty is
25 reasonable, it should be conditionally suspended.

26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW AND ORDER

1 III.

2 Any Finding of Fact which should be deemed a Conclusion of Law
3 is hereby adopted as such.

4 Therefore, the Pollution Control Hearings Board issues this

5 ORDER

6 The appeal is denied, but the civil penalty is suspended upon
7 condition that the appellant does not violate respondent's Regulation I
8 for one year from the date of this Order.

9 DATED this 25th day of February, 1975.

10 POLLUTION CONTROL HEARINGS BOARD

11 Chris Smith
12 CHRIS SMITH, Chairman

13 W. A. Gissberg
14 W. A. GISSBERG, Member

15 Walt Woodward
16 WALT WOODWARD, Member

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27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER